

### **Remarks**

The Office Action dated March 27, 2003, has been received and carefully noted. The amendments made herein and the following remarks are submitted as a full and complete response thereto.

Claims 1 and 3 have been amended. Applicants submit that the amendments made herein are fully supported in the specification and the drawings as originally filed, and therefore no new matter has been added. Accordingly, claims 1-3 are pending in the present application and are respectfully submitted for consideration.

An automatic focusing mechanism for mounting on a measuring device having a telescope for sighting a leveling rod with pattern marks marked thereon at an equal pitch between each mark, and a photoelectric device for converting an image sighted by said telescope into an electric signal with a set range to thereby automatically adjust a focus on the leveling rod, said mechanism comprising driving means for moving a focusing lens of said telescope from one end toward an opposite end of a movable range of said focusing lens; pitch computing means for obtaining only the pitch of the pattern marks of the leveling rod at a position on said photoelectric device which is capable of obtaining the pitch in a state before said focusing lens is focused on the leveling rod to thereby obtain a distance to the leveling rod based only on the pitch obtained by said pitch computing means, without scanning an entire targeted area for focusing; and fine adjusting means for moving said focusing lens to a position corresponding to the distance.

An automatic focusing mechanism for mounting on a measuring device having a telescope for sighting a leveling rod with pattern marks marked thereon at an equal pitch between each mark, and a photoelectric device for converting an image sighted by said telescope into an electric signal with a set range to thereby automatically adjust a focus on the leveling rod, said mechanism comprising driving means for moving a focusing lens of said telescope to a predetermined position within a movable range of said focusing lens; pitch computing means for obtaining only the pitch of the pattern marks of [only a portion of] the leveling rod on said photoelectric device to obtain a distance to the leveling rod based only on the pitch obtained by said pitch computing means, without scanning a targeted area for focusing; and fine adjusting means for moving said focusing lens to a position corresponding to said distance.

Claim 1 is objected to as containing a minor informality therein. Please review the attached Proposed Claim Amendments which should overcome the objection to claim 1.

Claims 1-3 are rejected under 35 U.S.C. § 112, first paragraph. In making this rejection, the Examiner takes the position that there is insufficient support for the limitation of "only a portion of" as recited in claims 1 and 3 of the present application. In particular, the Examiner refers to page 8, lines 13-14 of the specification as disclosing subject matter contrary to what is being recited in claims 1 and 3. Accordingly, we have removed the limitation at issue so that the claims can be in compliance with U.S. patent practice. Please review the attached Proposed Claim Amendments and let us know if you agree.

Claims 1-3 are once again rejected under 35 U.S.C. § 102(b) as being anticipated by Kumagai et al. (U.S. Patent No. 5,742,378, hereinafter "Kumagai").

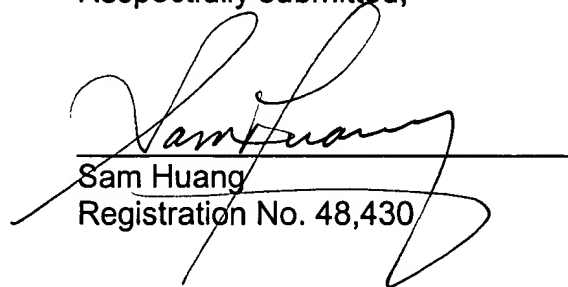
Kumagai discloses an electronic leveling apparatus 1 and leveling staff 2 having an optical system including an objective lens portion 11, a compensator 12, a beam splitter 13, an eyepiece portion 14, a linear sensor 15, and a computation means 16. In particular, Fig. 13 of Kumagai further shows the driver 17 which operates in accordance with the result of computation provided by the computation means 16 to move the internal lens 112 for the specified value. The focusing controller 1665 and the computation means 16 operate on the driver 17 to move the internal lens 112 from its infinity position toward the nearer position at a certain speed. Accordingly, the leveling apparatus of Kumagai is capable of focusing the scale pattern of the leveling staff by detecting the peak value of the Fourier transformation output.

In view of the above, Applicants respectfully submit that claims 1-3, each recites subject matter that is neither disclosed nor suggested in the cited prior art. Applicants also submit that the subject matter is more than sufficient to render the claims non-obvious to a person of ordinary skill in the art, and therefore respectfully request that claims 1-3 be found allowable and that this application be passed to issue.

If for any reason, the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact the Applicants' undersigned attorney at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

In the event this paper has not been timely filed, the Applicants respectfully petition for an appropriate extension of time. Any fees for such an extension, together with any additional fees that may be due with respect to this paper, may be charged to counsel's Deposit Account No. 01-2300, **referencing docket number 101136-00013.**

Respectfully submitted,



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Enclosure: Petition for Extension of Time (1 month)